
From: Neil Davis
Sent: 7/03/2024 7:29:41 PM
To: Council Northernbeaches Mailbox
Subject: TRIMMED: Submission on DA 2024/0091 - 45 Boyle St Balgowlah
Attachments: 33 Submission on 45 Boyle St.pdf;

Hello

Please find my submission on DA 2024/0091.

I lodged this submission on Monday evening (March 4 2024),

I checked today, and my submission is missing, it doesn't appear on the DA, while submissions by others do appear.

Accordingly, I re-submit it now.

best regards

Neil Davis



Attention: Northern Beaches Council

Re: DA 2024/0091: 45 Boyle St Balgowlah - Objection to Stormwater Management Strategy

Required Performance of Stormwater Management for DA 2024/0091

Stormwater management proposed for DA 2024/0091 at 45 Boyle Street Balgowlah must not cause adverse impacts on upstream properties, downstream properties, or on the property itself, based on Manly LEP 2013 Clause 6.4.

The Stormwater Management for DA 2024/0091 as currently detailed does not satisfy Manly LEP 2013 Clause 6.4.

Interallotment Drainage Easement at 45 Boyle St

A series of properties, including ours at 33 Boyle Street, have the legal benefit of an interallotment drainage easement that transits through 45 Boyle Street.

The interallotment drainage easement provides rights to discharge stormwater from up to eleven (11) properties comprising 284 to 288 Sydney Road, and from 31 to 45 Boyle Street.

The northern limit of the series of interallotment drainage easements terminates at the northern boundary of 45 Boyle Street on the alignment of the rear of the original cottage.

Figure 1 shows the lands title document (A566646 F.P166668) annotated on 22 January 1920, on a survey from August 1913. Plan A566646 indicates the extent of the interallotment drainage easement registered during the subdivision for 31 to 45 Boyle Street. Other land title documents show the segments of the easement with benefits or burdening properties.

The subdivision of 31 to 45 Boyle Street was established by Arthur Hill Griffith MLA, who was the Minister for Public Works at the time, and also reportedly he operated a patent attorney business, and acted as a developer. The interallotment drainage easement was legally registered on title plans associated with the subdivision, with access for drainage extending to upstream land now identified as 284 to 288 Sydney Rd.

At the time, the large parcel of land extending northwards of 45 Boyle St to Griffith Street was undeveloped, and not the subject of a development plan. When the downstream land parcel was eventually subdivided into 47 to 61 Boyle Street, and 83 to 89 Griffith Street, no provision for the continuation of the upstream interallotment drainage easement was registered through the downstream subdivision.

Discharge from Interallotment Drainage Easement to Council Stormwater Drainage System

Historical photographic records from Manly Council Engineer's Photo Collection from 1937 show a Council drain within the verge of Boyle St (refer **Figures 2 & 3**). In combination with historical aerial photographic records, it is evident that an open drain with the grassed verge of Boyle Street appears to have existed from the period between about 1912 to 1937, to accept the stormwater pipe and overland flow from the interallotment drainage easement.

Manly Council Engineer's photographic records from 1937 demonstrate that stormwater pipes were being laid within the open drain, extending from the verge in front of 45 Boyle Street and in a northwards direction downhill. The laying of stormwater pipes in the open drain and covering corresponds to a time of increasing motor vehicle ownership and demand for driveway crossings over the open drain. Buried pipe drainage was designed to improve the streetscape and provide unimpeded vehicle access to properties.

In past times, in discussions with the prior owner of 45 Boyle St, Mr Jack Astley who is now deceased, he recounted that he resided at the property for his entire life, and he believed the pipe within the easement to be a small diameter clay pipe, located at the rear of the original cottage. At the north west corner of the original cottage at 45 Boyle St, the buried stormwater pipe reportedly turns towards the east and continue buried to connect to the buried Council stormwater pipe in the Boyle Street verge. Current roof drainage for the original cottage at 45 Boyle St is also directed via PVC pipe towards the buried stormwater pipe in Boyle Street.

Based on the above, it is apparent that the series of interallotment drainage easements between 286 Sydney Road and 45 Boyle Street are designed to discharge to a Council drainage system in the verge of Boyle Street, originally into an open drain, but now converted to a buried pipe. It is apparent, that at no time, the approved drainage system was to discharge roof runoff to an unregistered flowpath through private properties to the rear.

The interallotment drainage easement from 286 Sydney Road to 45 Boyle Street, is potentially associated with up to 11 properties. As each lot sizes approach 500sqm, the combined upstream catchment has a significant area in the order of 0.5 hectares. While a few roofs may now discharge to Boyle Street, following recent DAs, many properties continue to utilise the interallotment drainage easement for their legal right to discharge stormwater.

Examining my land title for 33 Boyle Street Balgowlah highlights the land title registered drainage easement rights through downstream properties to 45 Boyle Street. Examining the land title for 45 Boyle Street highlights the property is burdened by the register drainage easement. The rights of drainage is not limited to 33 Boyle Street, but is also a series of drainage rights and burdens along the entire easement from 286 Sydney Road.

The current strategy for stormwater management in DA 2024/0091 to discharge through an unauthorised flowpath through private property will adversely impact downstream properties, and **does not satisfy Manly LEP 2013 Clause 6.4**. Such impact can be reasonably avoided by re-working the strategy to instead discharge to Council's stormwater drain buried in the Boyle Street verge. Council's drainage system map may not have yet recorded the existence of the buried pipe system, leading to contrary advice to the applicant from Council's engineer.

Summary of Unsatisfactory Performance of Stormwater Management in DA 2024/0091 (MLEP 2013 Cl. 6.4)

The proposed stormwater management for 45 Boyle St detailed in DA 2024/0091 will have adverse impacts, as follows:

Considerations	Impacts & Solution
<p>(1) The additions and alterations are proposed to be built over the interallotment drainage easement registered on land title documents, without considering the right of upstream properties to convey stormwater as pipe flow or overland flow through the easement, and does not provide access for any necessary future renewal, upgrade or maintenance.</p>	<p>The interallotment drainage easement is intended to provide for the conveyance of pipe drainage & overland flow generated from about 10 upstream properties.</p> <p>Most, if not all, of these upstream properties have a beneficial right to the easement.</p> <p>The land title for 45 Boyle Street also highlights the need to provide ongoing access to the easement for future renewal, upgrade or maintenance.</p> <p>The stormwater management strategy currently appears to infringe on the rights of the upstream properties to this easement.</p> <p>As such, the adverse impacts of building over an easement as shown without adequate access is not consistent with the objective of Clause 6.4, as it does impact upstream properties.</p> <p>To rectify this oversight, it is recommended that an new interallotment drainage easement link connect from the current interallotment drainage easement on the south side of the cottage and connect to the eastern boundary, as an relocated interallotment drainage easement to connect to Council's buried stormwater pipe. Subject to the new interallotment drainage easement link, providing connection to Council's system, the existing segment of drainage easement under the dwelling could potentially be extinguished (refer Figure 4).</p>

Considerations	Impacts
<p>(2) the proposed point of discharge designated as an overland spreader drain and located to the rear of the proposed extension, concentrates and directs overland flow into downstream properties, without obtaining a legal easement.</p> <p>Stormwater to be managed at 45 Boyle includes (a) site generated stormwater plus (b) must convey upstream stormwater arriving via the interallotment drainage easement that services up to eleven (11) properties.</p> <p>No details have been documented in DA 2024/0091 on the interallotment drainage easement renewal & discharge destination.</p>	<p>The use of an overland spreader drain will increase stormwater released and diverted to downstream properties. Concentration and increase stormwater discharge can be considered an act of nuisance.</p> <p>The infiltration rate from site testing rules out infiltration being viable for discharge.</p> <p>The adverse impacts listed above are not consistent with the objective of Clause 6.4.</p> <p>To rectify this concern, an alternate point of discharge must be used, and the one that is readily available, is Council's buried stormwater pipe within the Boyle St verge.</p>
Considerations	Impacts
<p>(3) increased roof areas and an obstructed easement, discharged to an overland spreader above private property, would cause a redirection of flow that will increase overland surface flow and increase subsurface flows near the rear alignment on many downstream properties.</p> <p>For existing conditions, roof drainage at 45 Boyle St cottage discharges via downpipes to the buried pipe in the Boyle Street verge.</p> <p>For proposed conditions the entire enlarged roof and pavement discharges to a rear flowpath through private lands</p> <p>Combined with flow arriving via the easement, redirect by the obstruction of the enlarged building footprint, has the potential to add to exacerbated increased downstream surface flow and subsurface flows.</p>	<p>The redirection of roof drain plus easement drainage towards the rear, to discharge as overland flow through downstream properties, increases impervious areas and increases downstream overland and subsurface flow rates and volumes</p> <p>The proposed OSD provision does not maintain flows discharged downstream at predevelopment levels.</p> <p>Increased surface flow and subsurface flows to unregistered flowpath would potentially causing adverse impacts to downstream properties, and as such is not consistent with the objective of Clause 6.4.</p> <p>To rectify this concern it is necessary that roof drainage and easement drainage is directed to Council's buried pipe system in Boyle St.</p>

Conclusion & Recommendations

The Stormwater Management strategy for DA 2024/0091 as currently proposed does not satisfy Manly LEP 2013 Clause 6.4.

A readily available alternate strategy that could address the above concerns would comprise:

- (1) discharging the interallotment drainage easement flow, combination of pipe and overland flow, towards the a buried Council stormwater pipe system in the grass verge of Boyle Street
- (2) discharging the roof drainage to the a buried Council stormwater pipe system in the grass verge of Boyle Street which historically has received roof water from the property.
- (3) register on title a new segment of interallotment drainage easement within 45 Boyle St to link to Council stormwater pipe system (refer **Figure 4**). Subject to the above, it may be possible to extinguish the segment of easement under the proposed building .

Council may choose a Deferred Commencement Condition in response to the DA to require an acceptable modification for stormwater management is designed to utilise the Council buried stormwater pipe system in the grass verge of Boyle Street, and to register a new segment of interallotment drainage easement.

Such a modified stormwater management strategy would appears to satisfy the right of drainage from upstream properties that currently burdens 45 Boyle Street via the interallotment drainage easement.

Yours sincerely

Neil Davis

FIGURES

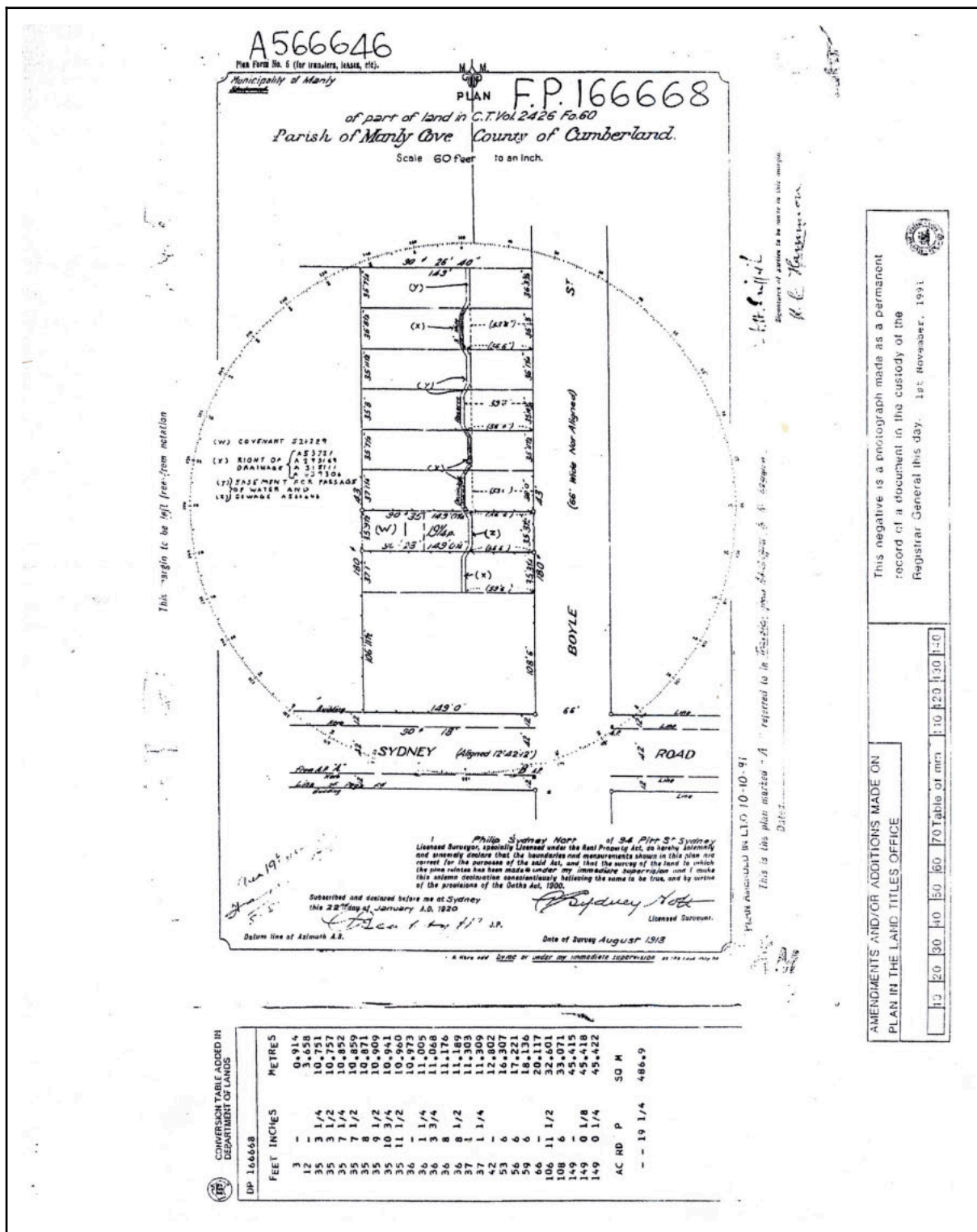


FIGURE 1 Drainage Easement Servicing Properties between 286 Sydney Road & 45 Boyle Street.



Figure 2 **Photograph (14/09/1937) Boyle Street Drain with Unlaid Pipes - Facing upslope**



Figure 3 **Photographs (14/09/1937) Boyle Street Drain - Facing downslope**

